

July 26, 2011

**BY ECFS**

Marlene H. Dortch, Esq.  
Secretary  
Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, D.C. 20554

**Re:   *Applications of AT&T Inc. and Deutsche Telekom AG for Consent to  
Assign or Transfer Control of Licenses and Authorizations, WT Dkt  
No. 11-65  
REDACTED – FOR PUBLIC INSPECTION***

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Dear Ms. Dortch:

AT&T Inc. and Deutsche Telekom AG (the “Applicants”) are jointly filing herewith this letter in response to Sprint’s recent *ex parte*, which argued that T-Mobile USA is a “close substitute” for AT&T for business customers, and that therefore the transaction would lessen competition for business customers.<sup>1</sup> In response to Sprint’s arguments, this paper demonstrates that T-Mobile USA has not been a significant competitor for business customers – let alone a close competitor to

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<sup>1</sup> See Ex Parte Notification of Sprint, *Application of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, WT Docket No. 11-65 (filed July 11, 2011).

AT&T – and that the proposed transaction will not lessen competition for business customers.

## I. Introduction and Overview

There are several reasons why the acquisition will not cause competitive harm to business customers, including the following:

1. As analyst reports indicate, and T-Mobile USA's Chief Marketing Officer has confirmed,<sup>2</sup> T-Mobile USA has not been a significant competitor to AT&T for business customers, and is unlikely to become one in the foreseeable future.
2. Approximately **[Begin Highly Confidential Information]** **[End Highly Confidential Information]** of T-Mobile USA's corporate discount plans' sales to "business" are to individual employees who have multiple options for corporate discount plans and purchase locally through retail outlets; thus sales to these customers are virtually indistinguishable from the consumer business.
3. The part of T-Mobile USA's business that is truly corporate is small and declining. Isolated examples of T-Mobile USA competing with AT&T for business customers do not constitute proof that the transaction would result in anticompetitive effects in any well-defined market.
4. T-Mobile USA does not have the sophisticated solutions generally required by larger businesses, and in the small business segment there are several competitors including regional carriers.
5. A cross-section of business customers support this transaction, as evidenced by the positive letters provided to the Commission confirming there will be no material loss of competition resulting from the transaction and recognizing how the transaction will benefit business customers large and small with better network performance

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<sup>2</sup> June 9, 2011 Declaration of Cole Jones Brodman (Brodman Decl.). We also submit herewith a Supplemental Declaration of Mr. Brodman elaborating on several points made in this letter. See July 25, 2011 Supplemental Declaration of Cole Jones Brodman (Supp. Brodman Declaration) (Exhibit 1).

and expanded LTE.

#### A. Overview of the Business Segment

Business customers are exceedingly heterogeneous in their nature and in their needs for wireless service. To state the obvious, they range from the very largest multinationals to the smallest businesses.<sup>3</sup> Their needs range from basic voice and data service to customized mobile applications to integrated solutions specific to an industry or company.

There are two basic models in the business segment. One model is “corporate responsibility” users (“CRU”), meaning the company pays the bill for its employees’ service. In the other model, called “individual responsibility” users (“IRU”), the company agrees with several wireless providers to offer service discounts to its employees. Thereafter, individual employees are free to choose which wireless provider to sign up with, frequently by walking into a local retail outlet to get the corporate discount. The employee compares the pricing and service (as well as pricing from other carriers), selects a provider, chooses its level of service, creates an account, and pays for service on the account. Some companies reimburse the employees for all or part of the cost of approved plans.<sup>4</sup>

The competitive dynamics are different for each model, although many companies use both models simultaneously (e.g., corporate responsible for certain key employees and individual responsible for the rest). CRU business is typically handled through competitive bidding in response to the company’s specification of its requirements, which may involve a bundle of telecom services. IRU business is essentially an extension of the consumer retail business, as it involves a pre-determined discount off of retail rates offered to individual employees through retail channels, generally with no exclusivity, volume commitment or obligation to purchase. Employees use these phones for personal use, and can sign up for IRU plans for themselves and for family members who have no affiliation with the

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<sup>3</sup> For a full description of the customer segments served by AT&T Business Solutions, *see* Exhibit 2.

<sup>4</sup> T-Mobile USA estimates that company reimbursement occurs for [Begin Highly Confidential Information] [End Highly Confidential Information] of its IRU subscribers. AT&T estimates that company reimbursement occurs for [Begin Highly Confidential Information] [End Highly Confidential Information] of its IRU subscribers.

company.

## **B. Overview of ABS and T-Mobile USA Services to Business Customers**

### **1. AT&T Business Solutions (ABS)**

In recognition of the increasingly integrated nature of business communications services, AT&T reorganized in 2008 so that all wireline and wireless sales to enterprise customers are combined in the AT&T Business Solutions (“ABS”) unit. In 2010, **[Begin Highly Confidential Information]** **[End Highly Confidential Information]** of the business customers who purchased wireless service through ABS also purchased wireline services from ABS. This reflects AT&T’s focus on the more complex needs of sophisticated business customers.

The value of the integration lies in ABS’ ability to draw upon the deep customer knowledge its sales people have from years of offering wireline, wireless, and application services across industry sectors. From architecture, engineering, construction, automotive, banking, consumer package goods, financial services, to healthcare, hospitality, insurance, and media, ABS designs, sells – and manages – integrated, customized mobile applications and systems. These include sophisticated billing services, pooled plans (all users in the company are pooled at the end of the month so those with extra minutes offset the overage of others), data and web hosting services, and the most sophisticated customized integrated machine-to-machine services and mobile applications. For example, ABS designed a custom mobile application for **[Begin Highly Confidential Information]**

**[End Highly Confidential Information]** to track deliveries and stores’ inventory levels. ABS also developed a unique mobile application for **[Begin Highly Confidential Information]**

**[End Highly Confidential Information]**. These are just a few examples of the complex, customized business solutions ABS offers to business customers.

### **2. T-Mobile USA’s Business Offerings**

In contrast, T-Mobile USA has prioritized its consumer strategy over business offerings. Its Chief Marketing Officer has explained that T-Mobile USA has “a relatively limited competitive presence in the business segment due to the

company's strategic decision to focus on, and invest in, its core consumer segment.”<sup>5</sup> As a result, T-Mobile USA has never developed the specialized suite of services and integrated product offerings that many business customers require.<sup>6</sup> T-Mobile USA's internal documents confirm that it does not have the “[Begin Confidential Information]

[End Confidential Information].<sup>8</sup> Certainly, T-Mobile USA has not [Begin Highly Confidential Information] [End Highly Confidential Information].<sup>9</sup> Nor does it have the breadth and depth in its limited sales force to address specific industry needs.<sup>10</sup> And early this year, T-Mobile USA outsourced its M2M sales force to a third party aggregator.<sup>11</sup>

Indeed, leading industry analysts confirm that T-Mobile USA “has no

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<sup>5</sup> See Brodman Decl. at ¶5.

<sup>6</sup> See Brodman Decl. at ¶6 (“T-Mobile USA...is not readily in a position to offer a complete suite of full-service, integrated telecommunications solutions to large business customers.”)

<sup>7</sup> See, e.g., FCC00150054, at 40.

<sup>8</sup> See, e.g., Exhibit 3, in September 2009 T-Mobile USA lost a bid for [Begin Highly Confidential Information] [End Highly Confidential Information] and in March 2010, it lost a bid for [Begin Highly Confidential Information] [End Highly Confidential Information].” Similarly, T-Mobile USA lost a bid to [Begin Highly Confidential Information]

[End Highly Confidential Information] *Id.*

<sup>9</sup> See Supp. Brodman Declaration at ¶6.

<sup>10</sup> Further, there are no joint service offering or sales approaches between T-Mobile USA and Deutsche Telekom.

<sup>11</sup> Brodman Decl. at ¶12. (“As of May 16, 2011, development of this business was outsourced to RACO Wireless, an aggregator and channel partner of T-Mobile USA.”)

business solutions available other than voicemail, email, Internet access and messaging.”<sup>12</sup> “Unlike competitors, T-Mobile has not organized to focus on enterprise accounts or at least offers little customization or vertical specialization.”<sup>13</sup> More generally, analysts recognize T-Mobile USA’s negligible presence for business customers. For example, Fierce Wireless notes that “[T-Mobile USA] is nowhere in enterprise.”<sup>14</sup> And IDC states that “T-Mobile remains very focused on the consumer market, and – as noted in previous years – has the weakest play in the business space, having yet to demonstrate a sophisticated approach to SMB.”<sup>15</sup>

As part of the plan to attempt to revitalize the T-Mobile USA business, the company’s management contemplated increased emphasis on business sales. However, T-Mobile USA has acknowledged that it would need to dedicate considerable financial and human resources to become competitive for business customers.<sup>16</sup> Company documents highlight that **[Begin Highly Confidential Information]**

**[End**

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<sup>12</sup> Current Analysis, *T-Mobile USA- Business Services US*, (Dec. 6, 2010) at 3.

<sup>13</sup> *Id.* at 2.

<sup>14</sup> Mark Lowenstein, *Lowenstein’s View: Sprint +T-Mobile+Clearwire Merger=Short-Term Pain, Long-Term Gain?*, FierceWireless: Europe (Mar. 16, 2011), at 2, <http://www.fiercewireless.com/story/lowensteins-view-sprintt-mobileclearwire-mergershort-term-pain-long-term-ga/2011-03-16>.

<sup>15</sup> IDC, *Competitive Analysis U.S. Mobile Operator 2010 Vendor Analysis: Targeting Savvy and Unsophisticated SMBs Alike*, at 7-8. Other analysts do not identify T-Mobile USA in the wireless business segment. *See, e.g.*, IDC, *Competitive Analysis, MarketScape: Mobile Enterprise Services 2010 Vendor Analysis*, at 2 (IDC identified AT&T, Sprint, and Verizon as the “key wireless operators providing business mobility solutions in the United States” because of “their broad reach and their comprehensive approach to enterprise, government, and SMB space.”)

<sup>16</sup> Brodman Decl at. ¶13 (“T-Mobile USA faces significant challenges in attracting and/or retaining business and government customers in large part because of the considerable investment that is needed to compete for the enterprise segment of the market.”).

Highly Confidential Information]”<sup>17</sup> More generally, T-Mobile USA documents acknowledge [Begin Highly Confidential Information]

[End

Highly Confidential Information]”<sup>18</sup>

[Begin Highly Confidential Information]

[End Highly

Confidential Information]

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<sup>17</sup> See, e.g., FCC00150054, at 40.

<sup>18</sup> Id. at 57.

<sup>19</sup> Supp. Brodman Declaration at ¶8 (“Having [Begin Highly Confidential Information]

[End Highly Confidential

Information.]”)

<sup>20</sup> Supp. Brodman Declaration at ¶8. (“The results to date, however, have not been [Begin Highly Confidential Information]

[End Highly

Confidential Information]. At the outset of this initiative, the executive team set aspirational targets. For small business customers, the original targets ranged from [Begin Highly Confidential Information] [End Highly Confidential Information] new business customers for the year. But sales to date have lagged significantly below these expectations.”)

<sup>21</sup> Supp. Brodman Declaration at ¶8, 9 (“Having [Begin Highly Confidential Information]

[End Highly

Confidential Information]”)

## II. Analysis

### A. Individual Responsible Users Are Indistinguishable from the Consumer Segment

Competition for IRU business occurs primarily at the individual, and not at the corporate, level. Companies seeking to establish such plans for their employees authorize multiple wireless carriers in virtually every case, precisely because they want their employees to have choices among providers. These plans are typically purchased for personal use. AT&T offers standard corporate discounts off of its retail plans for such situations, and sees the real competition for employees occurring at the retail level.

In that sense, IRU business is very much a part of the consumer business. In both IRU and consumer sales, individual consumers decide which carrier to choose, and those decisions are made locally, where each employee works or lives. The evidence confirms that IRU subscribers and consumers have similar characteristics.

- *First*, [Begin Highly Confidential Information] [End Highly Confidential Information] of AT&T's and T-Mobile USA's IRU lines are purchased in retail stores.<sup>22</sup>
- *Second*, [Begin Highly Confidential Information] [End Highly Confidential Information] of AT&T's IRU lines are on family plans. In contrast, [Begin Highly Confidential Information] [End Highly Confidential Information] of AT&T CRU lines are on pooled and customized plans.
- *Third*, [Begin Highly Confidential Information] [End Highly Confidential Information] of AT&T's IRU subscribers migrate from consumer plans.
- *Fourth*, [Begin Confidential Information] [End Confidential Information]. For example, in 2010: AT&T's CRU ARPU was [Begin Highly Confidential Information] [End Highly Confidential Information], AT&T's IRU ARPU was [Begin Highly Confidential Information] [End Highly Confidential Information], and AT&T's consumer ARPU was \$62.88 (Q4

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<sup>22</sup> See Exhibit 4.



2010). From January to June 2011, T-Mobile USA's CRU ARPU was [Begin Highly Confidential Information] [End Highly Confidential Information], T-Mobile USA's IRU ARPU was [Begin Highly Confidential Information] [End Highly Confidential Information], and T-Mobile USA's consumer ARPU was \$52 (Q1 2011).

- *Fifth*, employees who have access to IRU plans can and do forego the corporate discount in order to obtain service from another carrier that offers the devices, coverage, rate plans and other features desired by the employee.

For all these reasons, IRU sales do not represent a separate segment of "business customers," but are another dimension of the retail consumer business we have addressed.

**B. T-Mobile USA's Competitive Presence in Corporate Responsible Accounts Is Negligible**

CRU business generally involves larger companies in need of more integrated and sophisticated solutions, which T-Mobile USA does not offer. The vast majority of T-Mobile USA's business sales [Begin Highly Confidential Information] [End Highly Confidential Information] – consists of IRU business.<sup>23</sup> [Begin Highly Confidential Information]

[End Highly Confidential Information].<sup>24</sup>

Further, T-Mobile USA generally focuses on smaller accounts. T-Mobile USA's Top 50 CRU customers use between [Begin Confidential Information] [End Confidential Information], while AT&T's Top 50 CRU customers use from [Begin Confidential Information]

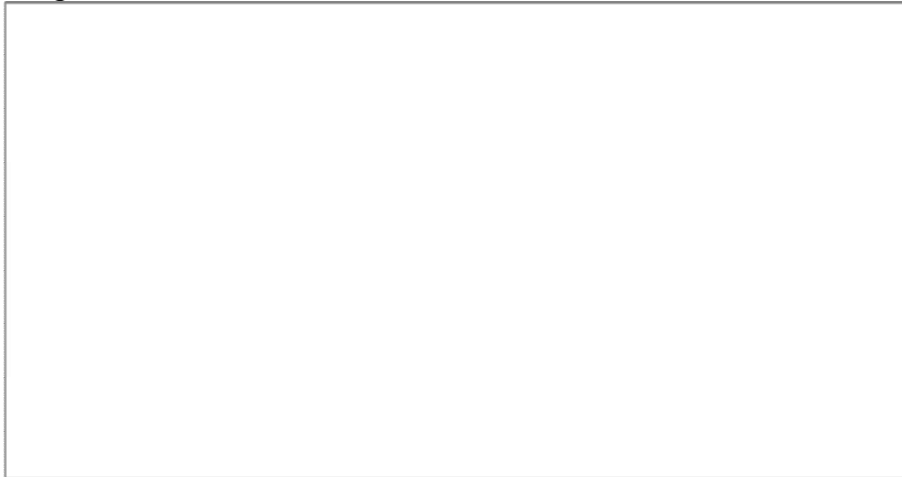
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<sup>23</sup> In 2010, approximately [Begin Highly Confidential Information] [End Highly Confidential Information] of ABS' wireless revenues consisted of IRU business. See Exhibit 5.

<sup>24</sup> TMUS estimates that its total CRU subscriber count decreased from [Begin Highly Confidential Information] [End Highly Confidential Information].

**[End Confidential Information]**.<sup>25</sup> In other words, the very top end of T-Mobile USA's CRU business overlaps only slightly with the bottom of AT&T's Top 50, as shown in the chart below:

**[Begin Confidential Information]**



**[End Confidential Information]**

For regional and small CRU business, the competition includes not only AT&T, Verizon and Sprint, but also MetroPCS, Leap, US Cellular, Cellular South, and Cincinnati Bell, all of whom advertise services to small business customers.<sup>26</sup> AT&T documents confirm competition for business customers with these and other smaller carriers.<sup>27</sup> ABS customers also report using these carriers for wireless

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<sup>25</sup> See Exhibit 6 (AT&T's Top 50 business customer lists) and 7 (T-Mobile USA's top 50 business customer lists).

<sup>26</sup> See Exhibit 8, e.g., <https://www.cellularsouth.com/cscommerce/business/index.jsp>; <http://www.uscellular.com/business>; <http://www.cincinnati-bell.com/business/>; <http://www.metropcs.com/business/>; Leap launched Cricket Multi-Value Plan™, which allows customers to add up to three additional lines to their account and receive a discount of \$10 per month for each line, while consolidating billing for all of those lines onto a single statement, making it “easier for households and *small business* to manage their wireless account.” Press Release, *Leap Announces the Launch of Cricket Unlimited(TM) - The First-Ever Complete Package of Unlimited Anytime Local, U.S. Long Distance and Text Messaging Wireless Services* (Mar. 16, 2004), [http://phx.corporate-ir.net/phoenix.zhtml?c=191722&p=irol-newsArticle&ID=721772&highlight=small business](http://phx.corporate-ir.net/phoenix.zhtml?c=191722&p=irol-newsArticle&ID=721772&highlight=small%20business) (emphasis added).

<sup>27</sup> See, e.g., **[Begin Highly Confidential Information]**

(continued...)

services, at times to the exclusion of T-Mobile USA.<sup>28</sup>

**C. No Anti-Competitive Effects**

**1. No Risk of Unilateral Effects**

The evidence confirms that T-Mobile USA has not been a significant competitor to AT&T for business customers, let alone a particularly close competitor. There are relatively few examples of head-to-head competition, as T-Mobile USA does not offer the customized business solutions which ABS offers.

ABS has approximately [Begin Confidential Information] [End Confidential Information] CRU business accounts, and [Begin Confidential Information]

[End Confidential Information].<sup>29</sup>

**2. No Risk of Coordinated Effects**

Similarly, the competition for wireless business customers reflects none of the characteristics necessary to foster coordination.

*First*, competition for business customers lacks transparency. Bids are private and responses to bids consist of highly customized CRU offerings. And there is no transparency as to the cost of these complex services, which include integrated wireline/wireless offerings, customized mobile applications and services,

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(...continued)

[End Highly Confidential Information].

<sup>28</sup> See, e.g., Statement of Asplundh Tree Expert Co. (“[In addition to AT&T, Verizon and Sprint, we] also receive wireless telecom services from approximately 15 other carriers [excluding T-Mobile USA]”), enclosed as one of several supporting statements in Exhibit 10.

<sup>29</sup> See, e.g., Exhibit 9, at 3.

and customized wireless plans (e.g., pooled plans).

*Second*, the heterogeneity of products and services, and of customers (small vs. large) make coordination infeasible. This is also true as to customers who require basic wireless service, as they each receive basic services under different discounts based on their annual potential spend with each provider.

*Third*, there is no credible mechanism to monitor coordination, nor a mechanism to retaliate from coordination deviations, in the wireless industry.

*Finally*, and importantly, large business customers have buying power and would defeat any attempt at coordination. The international dimension of the demand for telecom services for large customers further highlights the stakes. Multinational customers increasingly bid their telecom demand globally, and are able to pool their global purchases to extract the best prices from wireless carriers and system integrators worldwide.

### **III. Business Customers Support the Transaction**

A cross-section of business customers supports the transaction, ranging from small customers to the largest multinational corporation to the nation's leading high tech companies (e.g., Microsoft, Oracle, Facebook).<sup>30</sup> As evidenced by the

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<sup>30</sup> See Exhibit 10, American Airlines statement, June 8, 2011; Asplundh Tree Expert Co. statement, June 8, 2011; Cameron International statement, June 4, 2011; L&T Infotech statement, June 9, 2011; Syrabex statement, May 26, 2011; Welch Allyn statement, July 1, 2011; Avis statement, July 1, 2011; June 15, 2011 Delta letter, June 15, 2011; Letter from Avaya, Brocade, Facebook, Microsoft, Oracle, Qualcomm, RIM and Yahoo!, June 6, 2011 (all of these companies are ABS wireless customers); *see also* supporting statements from Manhattan (NY) Chamber of Commerce (supporting merger and enhancement of mobile broadband coverage, citing benefits to New York business community of over 100,000 companies); Silicon Valley Leadership Group ("merger is a logical, viable solution to the looming spectrum shortages" and expansion of 4G LTE wireless service will offer "tremendous growth potential" for Silicon Valley companies and be significant for telehealth industry); Missouri Chamber of Commerce and Industry (urging approval of merger to support expansion of wireless broadband connectivity, "a critical component to ensure all Missouri businesses – large and small – are able to compete locally and globally"); New Jersey Chamber of Commerce ("It is important to the New Jersey Chamber of Commerce and thousands of businesses across the (continued...)

customer statements and letters attached hereto, they believe the wireless market is extremely competitive, and generally do not view T-Mobile USA as a viable competitor for their businesses. For example:

- The Chief Information Officer of Avis notes: “I consider the domestic wireless market to be absolutely competitive, and I do not regard T-Mobile USA as a significant competitor of AT&T.”
- The Chief Information Officer of Asplundh (a line clearance and vegetation management services company) concurs: “I do not consider [T-Mobile USA] to be a significant competitive alternative.”

Further, these statements also highlight the benefits that this transaction will provide these companies’ employees and customers by improving network performance and expanding AT&T’s 4G LTE network. For example:

- The CEO of Syrabex (the Syracuse Builder Exchange) states that the transaction “would improve the quality of wireless service that AT&T offers, including having fewer dropped calls.”
- The President of American Airlines explains why the transaction “is a positive step” to “increase capacity and help support next-generation mobile services.”
- The CEO of Delta Airlines states that the transaction will “achieve technological and operational efficiencies...satisfying million of additional customers” and that “Delta looks forward to the innovation and service improvements that the merger of AT&T and T-Mobile promises.”

#### **IV. Conclusion**

This transaction will not lessen competition for business customers, and business customers will benefit from the network efficiencies, improved service, increased output, and expanded 4G LTE coverage to over 97% of the United States population – all of which directly result from the transaction. These benefits are

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(...continued)

state that AT&T’s 4G LTE service is upgraded and expanded, as the merger stands to do”); San Francisco Chamber of Commerce (citing benefits of “improving business performance” through expansion of 4G LTE service).

Marlene H. Dortch, Esq.  
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particularly significant in business-centric regions such as New York, Los Angeles, and San Francisco, as well as in rural areas that will now receive next-generation LTE mobile broadband service.

Pursuant to the Protective Order and Second Protective Order in this proceeding,<sup>31</sup> we are submitting this letter and its exhibits to you on a CD-ROM. In addition, we are submitting a redacted version of this letter and its exhibits in ECFS. Finally, we are submitting two copies of the unredacted version of this letter and its exhibits to Kathy Harris of the Wireless Telecommunications Bureau staff or her designee.

If you have any questions or require further information, please contact us at 202-942-5499 or Richard.Rosen@aporter.com, or 202-719-7344 or nvictory@wileyrein.com. Thank you for your assistance.

Sincerely,

/s/

Richard Rosen  
Counsel for AT&T Inc.

/s/

Nancy Victory  
Counsel for Deutsche Telekom AG

Enclosures

cc: Best Copy and Printing, Inc. (redacted version)  
Kathy Harris, Esq (unredacted and redacted versions)  
Ms. Kate Matraves (redacted version)  
Jim Bird, Esq. (redacted version)

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<sup>31</sup> *In re Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, WT Dkt No. 11-65, Protective Order, DA 11-674 (WTB rel. Apr. 14, 2011) (“First Protective Order”); *In re Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, WT Dkt No. 11-65, Second Protective Order (Revised), DA 11-1100 (WTB rel. June 22, 2011), *modified*, DA 11-1214 (WTB rel. July 19, 2011) (“Second Protective Order”).